

MARION BACIL

IBLA 78-178

Decided June 23, 1978

Appeal from decision of the Utah State Office, Bureau of Land Management, dismissing a protest to the issuance of oil and gas lease U-38818.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

The mere use of a filing service's address on a simultaneous oil and gas lease drawing entry card does not constitute a violation of the applicable statutes or of any departmental regulations, is not otherwise impermissible and is not a ground for rejecting the card.

2. Administrative Authority: Generally -- Courts -- Oil and Gas Leases: Attorneys-in-Fact or Agents

A consent decree obtained by the Securities and Exchange Commission establishes no precedent for cases involving different parties. Allegations of Federal securities law violations in connection with Federal oil and gas leasing should be directed to the Securities and Exchange Commission, the agency with jurisdiction over such matters. The jurisdiction of the Board of Land Appeals does not extend to matters exclusively under the jurisdiction of the SEC, but goes to matters involving compliance with oil and gas leasing statutes and regulations.

APPEARANCES: Marion Bacil, pro se; James W. McDade, Esq., of McDade and Lee, Washington, D.C., for James H. Sipple.

## OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Marion Bacil appeals from the December 1, 1977, decision of the Utah State Office, Bureau of Land Management (BLM), dismissing his protest against the issuance of oil and gas lease U-38818 to James H. Sipple or to R. B. Sheverbush. Sipple's drawing entry card for this lease was drawn first in the simultaneous drawing held on November 15, 1977, and Sheverbush's was drawn No. 2. Appellant's card was drawn No. 3.

In his protest, appellant questioned the existence of Sipple and Sheverbush because he did not believe the addresses on their entry cards were their true addresses. He also asserted that these offerors must comply with the requirements of 43 CFR 3102.6-1 regarding agents. The BLM State Office dismissed the protest because appellant offered no evidence in support of his allegations, because there is no requirement regarding whose address must be used on a drawing entry card, and because Sipple's offer complied with the regulation.

Sipple's drawing entry card contained the return address of 100 S. Wacker Drive, Chicago, Illinois, the address of Stewart Capital Corp., an oil and gas lease filing service. The card was accompanied by statements from Sipple and Stewart Capital to the effect that Stewart Capital affixed Sipple's signature to the card and performed other services for Sipple, but had no interest in the offer. The address on Sheverbush's entry card is a post office box in Cheyenne, Wyoming. There is no indication in the case file that this is not his own mailing address.

Appellant's statement of reasons appears to be a printed form. It contains general arguments against drawing entry cards filed by oil and gas lease filing services such as Stewart Capital. It contains no specific reference to Sipple, Stewart Capital or the BLM decision dismissing appellant's protest. The arguments are two-fold: (1) use of the filing service's address violates the party in interest and multiple filing provisions of 43 CFR 3102.7 and 3112.5-2; (2) all filing services are in violation of the "U.S. Securities Act of 1933, as amended." This latter argument is based upon a consent decree issued by the U.S. District Court for the District of New Mexico in Securities and Exchange Commission v. Wilson, Civil No. 77-133M (June 15, 1977). This decree enjoins Max Wilson, Inc., a filing service, "from violating the registration and antifraud provisions of the Federal securities laws in connection with the offer and sale of investment contracts involving the \* \* \* Simultaneous Oil and Gas Lease Filing System, or any other security whatsoever of any issuer." Securities and Exchange Commission (SEC) Litigation Release No. 7998 (June 28,

1977). Counsel for appellee answers these arguments by denying that Stewart Capital has any interest in Sipple's offer or has violated the "U.S. Securities Act of 1933, as amended."

[1] The Board has consistently held that the mere use of a filing service's address on a drawing entry card does not constitute a violation of any applicable statutes, or of departmental regulations, is not otherwise impermissible, and is not a ground for rejecting the card. D. E. Pack, 31 IBLA 283 (1977); Harry L. Matthews, 29 IBLA 240 (1977). The BLM State Office acted properly in dismissing appellant's protest regarding the addresses used by offerors Sipple and Sheverbush.

[2] Appellant's allegations regarding this Board's responsibility to enforce violations of the "U.S. Securities Act of 1933" are unfounded. The judgment rendered in SEC v. Wilson, *supra*, was a consent decree. As in most consent decrees, the allegations of the SEC complaint were neither admitted nor denied but the parties entered into an agreement regarding Wilson's future conduct. Contrary to appellant's assertions, a consent decree is only binding on the parties to it and has no precedential value in other cases. Ware v. Ester, 328 F. Supp. 657, 659 (N.D. Tex. 1971), *aff'd mem.*, 458 F.2d 1360 (5th Cir.), *cert. denied*, 409 U.S. 1027 (1972); Bonner v. Texas City Independent School District, 305 F. Supp. 600, 621 (S.D. Tex. 1969). Appellant has offered no proof that Stewart Capital, the filing service here, is subject to a similar injunction.

Appellant should direct charges of Federal securities law violations to the SEC, the agency with jurisdiction over such matters. This Department has no jurisdiction over matters exclusively delegated by Congress to the SEC. Our jurisdiction in this case goes to matters involving compliance with oil and gas leasing statutes and regulations. 43 CFR 4.1(3); Elias C. Bacil, 34 IBLA 322 (1978). Since appellant has not demonstrated any violations of oil and gas leasing statutes and regulations, his protest against the issuance of oil and gas lease U-38818 is properly dismissed. This decision does not determine who, if anyone, should be issued the lease. The BLM State Office should now proceed with that determination. 1/

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1/ Nothing in this decision should be interpreted as precluding appropriate BLM officials from going through official channels to cooperate with any investigation of any leasing service or broker by the SEC, Post Office or other Government agency.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Joan B. Thompson  
Administrative Judge

We concur:

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Frederick Fishman  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

